FILED
MAY 11 1955
HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

October Term, 1954

No. 786

NATIONAL SAVINGS AND TRUST COMPANY and CHARLES T. TITTMANN, Surviving Trustees, etc., *Petitioners*,

v.

HERBERT BROWNELL, JR., Attorney General, as Successor to the Alien Property Custodian, *Respondent*.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

JOHN E. POWELL
1341 G Street, N. W.
Washington 5, D. C.
Attorney for Petitioners.

Of Counsel:
ARTHUR P. DRURY
JOHN M. LYNHAM
CHARLES T. TITTMANN

WILSON - EPES PRINTING CO. - RE 7-6002 - WASHINGTON 1, D. C.

BLEED THROUGH POOR COPY

INDEX

Subject Index

PAGE

Opinions Below 1

Jurisdiction of this Court 2

Date of Judgment to be Reviewed 2
Statutory Provisions 2
Question Presented 2

Constitutional Provisions, Treaties, Statutes, and Proclamations 2-3

Statement of the Case 3-6

Reasons for Granting the Writ 6-12

Conclusion 12

Appendix 13-37

Opinion of Court of Appeals 13-18

Constitution of the United States, Art. I, Sec. 8, Cl. 11; Amendment V 19

The Trading with the Enemy Act, as amended, 50 U.S.C. App. 5(b), 9(a), 39 19-22

Cessation of Hostilities of World War II, a Proclamation by the President of the United States, 61 Stat. 1048 22-23

Joint Resolution Terminating the State of War between the United States and the Government of Germany, 65 Stat. 451 24

Termination of the State of War with Germany, a Proclamation by the President of the United States, 66 Stat. c3 25-26

Treaty of Friendship, Commerce and Consular Rights between the United States and Germany dated December 8, 1923, 44 Stat. 2132 27

Agreement Concerning the Treaty between the United States of America and Germany on Friendship, Commerce and Consular Rights of December 8, 1923 27-28

PAGE

Excerpt from Hearings before Senate Subcommittee on the Judiciary 29-30

Chronological Background prepared for the Senate Committee on Foreign Relations by the Foreign Affairs Section of Legislative Reference Service, Library of Congress 31-37

CITATIONS

Cases:

Chastleton Corporation v. Sinclair, 264 U.S. 543, 68 L.Ed. 841, 44 S.Ct. 405 7
Clark v. Allen, 331 U.S. 503, 91 L.Ed. 1633, 67 S.Ct. 1431 10
Commercial Trust Co. v. Miller, 262 U.S. 51, 67 L.Ed. 858, 43 S.Ct. 486 11
Garvan v. Commercial Trust Co. of N. J., 275 Fed. 841 11
Russian Volunteer Fleet v. United States, 282 U.S. 481, 75 L.Ed. 473, 51 S.Ct. 229 9
Silesian-American Corp. v. Clark, 332 U.S. 469, 92 L. Ed. 81, 68 S.Ct. 179 ..... 7, 11
Stoehr v. Wallace, 255 U.S. 239, 65 L.Ed. 604, 41 S. Ct. 293 ..... 7, 11
Sutherland v. Guaranty Trust Co. of New York, 11 F.2d 696 9
Woods v. Miller Co., 333 U.S. 138, 92 L.Ed. 596, 68 S.Ct. 421 7

Statutes and Constitutional Provisions:

Constitution of the United States, Art. I, Sec. 8, Cl. 11; Amendment V 6, 9
Joint Resolution to Terminate certain emergency and war powers, 61 Stat. 449 7
Joint Resolution to Terminate the state of war between the United States and Germany, 65 Stat. 451 8
Trading with the Enemy Act, as amended, 50 U.S.C. App. 5(b), 9(a), 17, 39 ..... 4, 6, 9, 11
War Claims Act of 1948, 62 Stat. 1240; P.L. 896, 80th Congress, 2d Session 4, 9

BLEED THROUGH POOR COPY

PAGE

Proclamations:

Cessation of Hostilities of World War II, a Proclamation by the President of the United States, 61 Stat. 1048 7
Termination of War with Germany, 66 Stat. c3..... 8

Treaties:

Agreement with the Federal Republic of Germany, effective October 22, 1954, Art. I..... 10
Treaties with Italy, Roumania, Bulgaria and Hungary, 61 Stat. 1369, 1799, 1953, 2109..... 7
Treaty of Friendship, Commerce and Consular Rights dated December 8, 1923, 44 Stat. 2132 at 2133-4 9, 10

Miscellaneous:

Chronology prepared by the Foreign Affairs Section of the Legislative Reference Service, Library of Congress, for the Senate Committee on Foreign Relations 7, 8

BLEED THROUGH POOR COPY

In The

Supreme Court of the United States

October Term, 1954

No. .....

National Savings and Trust Company and Charles T. Tittmann, Surviving Trustees, etc., *Petitioners*,

v.

Herbert Brownell, Jr., Attorney General, as Successor to the Alien Property Custodian, *Respondent*.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

The National Savings and Trust Company and Charles T. Tittmann, as Surviving Trustees under three inter vivos trust agreements hereinafter more fully described, pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit entered in the above case on March 3, 1955.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the District of Columbia Circuit is not yet reported and is printed in the Appendix at pp. 13-18, infra.

GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED

Date of Judgment to be Reviewed

The judgment of the Court of Appeals was dated March 3, 1955 and was filed on the same date.

Statutory Provisions Conferring Jurisdiction on this Court

The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

Question Presented

The question presented is whether the Attorney General, as successor to the Alien Property Custodian, under the provisions of the Trading with the Enemy Act, is entitled to enforce Vesting Orders issued in February and May, 1951, in respect of trust assets valued at $243,637 held by Petitioners as trustees under three inter vivos trusts, the beneficiaries of which are nationals of the Federal Republic of Germany.

THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, AND PROCLAMATIONS INVOLVED

The following, being lengthy, are set forth in the Appendix, infra, pp. 19-28:

i. Constitution of the United States, Art. I, Sec. 8, Cl. 11; Amendment V.

ii. The Trading with the Enemy Act, as amended, 50 U.S.C. App. 5(b), 9(a), 39.

iii. Cessation of Hostilities of World War II, a Proclamation by the President of the United States, 61 Stat. 1048.

BLEED THROUGH POOR COPY

iv. Joint Resolution Terminating the State of War between the United States and the government of Germany, 65 Stat. 451.

v. Termination of the State of War with Germany, a Proclamation by the President of the United States, 66 Stat. c3.

vi. Treaty of Friendship, Commerce and Consular Rights between the United States and Germany dated December 8, 1923, 44 Stat. 2132.

vii. Agreement concerning the Treaty between the United States of America and Germany on Friendship, Commerce and Consular Rights of December 8, 1923.

STATEMENT OF THE CASE

Petitioners, National Savings and Trust Company and Charles T. Tittmann, are the surviving trustees under three inter vivos trusts created by German citizens in the year 1924.

By agreement dated April 12, 1924 Blanca Baronin Cotta transferred to Petitioners and to a third trustee, Reeves T. Strickland, now deceased, certain notes and securities, in trust, to pay the net income to the grantor during her life and upon her death to hold the trust property for the additional purposes set forth in the trust instrument. The grantor expressly reserved the power to terminate, revoke and alter the agreement in whole or in part. The agreement also provided that the laws of the District of Columbia should be applicable to the interpretation of the agreement and all rights and obligations arising thereunder.

By agreement also dated April 12, 1924 Baron Alfred Palm transferred to Petitioners and Strickland, as trustees, certain notes and securities, in trust, to pay the

net income to the grantor during his life and upon the grantor's death to hold the trust property upon the additional trusts set forth in the agreement; this agreement also reserved to the grantor the right to terminate, revoke and alter the trust in whole or in part and provided that the laws of the District of Columbia should be applicable.

By agreement dated May 4, 1924 Irene Baronin St. Andre transferred to Petitioners and Strickland, as trustees, certain notes and securities in trust to pay the income to grantor during her life and upon her death to hold the trust property upon the additional trusts declared in the trust instrument; the grantor of this trust also expressly reserved the right to terminate, revoke or alter the trust in whole or in part and the agreement also provided that the laws of the District of Columbia should be applicable to it.

The trust property was American in origin. Its history is described in the excerpt from the hearings before the Senate Subcommittee of the Committee on the Judiciary which is printed in the Appendix, pp. 29-30.

On July 3, 1948 the President approved the War Claims Act of 1948 (62 Stat. 1240; P. L. 896, 80th Congress, 2d Session). Section 12 of the Act amended the Trading with the Enemy Act by adding a new section (39) which provides, in substance, that no property of a German national vested at any time after December 17, 1941 shall be returned to its former owner or his successors in interest, that the United States shall not pay compensation for the property but that the net proceeds resulting from disposition of the property shall be paid into the Treasury (App. 22). This section is still on the statute books and is applicable to the trust property involved in this case.

BLEED THROUGH POOR COPY

Purporting to act pursuant to the provisions of the Trading with the Enemy Act as amended (50 U.S.C. App. 1 et sequitur) the Attorney General of the United States issued so-called Vesting Orders in respect of each of the three trusts.

The Vesting Order in respect of the trust created by Irene Baronin St. Andre was dated February 21, 1951. The property covered by the order was itemized in a schedule attached to it and amounted in value to $69,862.31, consisting of $862.31 in cash and $69,000 in United States Treasury Bonds.

The Vesting Order in respect of the trust created by Baron Alfred Palm was dated May 14, 1951. The order had attached to it a schedule of the property vested; the value thereof amounted to $87,116.26, consisting of $6,116.26 cash and $81,000 in United States Treasury Bonds.

The Vesting Order pertaining to the trust created by Blanca Baronin Cotta was dated May 14, 1951. The schedule attached to the order shows that the property then held in the trust had a value of $86,658.42, consisting of $5,658.42 cash and $81,000 in United States Treasury Bonds.

On November 16, 1953 Respondent instituted in the United States District Court for the District of Columbia three civil actions, one in respect of each trust; in each suit he asked the Court to decree that he was entitled to immediate possession of the trust property and to order that Petitioners pay over and deliver said property to him. The trust created by Irene von St. Andre was the subject matter of Civil Action No. 5297-53; the trust created by Alfred Baron Palm was the subject matter of Civil Action No. 5298-53; and the trust created by Blanca Baronin Cotta was the subject matter of Civil Action No. 5299-53.

These suits were begun by Respondent under the terms of Section 17 of the Trading with the Enemy Act, 50 U.S.C. App. 17.

Answers to the three complaints were filed by Petitioners on December 7, 1953. The answers were similar in form and alleged that the seizures sought to be enforced by Respondent would, if successful, result in confiscation of the trust property and would violate the provisions of the Fifth Amendment to the Constitution of the United States, would be contrary to international law and would violate obligations assumed by the United States under treaties and international agreements.

Upon motion of Respondent and with the consent of Petitioners, the three civil actions were consolidated by an order dated December 18, 1953.

On December 31, 1953 Respondent filed a motion for judgment on the pleadings alleging that the answers did not raise any issues of fact and did not state legal defenses to Respondent's claims.

Respondent's motion was heard on January 28, 1954 by District Judge Curran who granted it and on February 5, 1954 entered an order from which an appeal was taken to the United States Court of Appeals for the District of Columbia Circuit. The judgment and order of the Court of Appeals entered on March 3, 1955 affirmed the order of Judge Curran (App. 13)

REASONS FOR GRANTING THE WRIT

The Court of Appeals, in this case, has decided an important question of federal law which has not been, but which should be, settled by this Court.

The Trading with the Enemy Act has its basis in the provisions of Article I, Section 8, Clause 11 of the Con-

BLEED THROUGH POOR COPY

stitution of the United States. *Stoehr* v. *Wallace*, 255 U.S. 239, 242, 65 L.Ed. 604, 41 S. Ct. 293. That clause of the Constitution empowers the Federal Government "to declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water."

The constitutional provision and the statute have for their purposes to lessen the ability of the enemy to wage war and to enhance the ability of the United States to prosecute the war. *Silesian-American Corp.* v. *Clark*, 332 U.S. 469, 476, 92 L.Ed. 81, 68 S.Ct. 179.

Resort to the powers conferred by the Act "is limited to a war or a declared national emergency". *Silesian-American Corp.* v. *Clark*, supra. (332 U.S. at 476).

Inasmuch as the validity of action taken under the Act depends upon the existence of war conditions, the existence or nonexistence of those conditions is a valid subject of judicial inquiry. *Chastleton Corporation* v. *Sinclair*, 264 U.S. 543, 547, 68 L.Ed. 841, 44 S.Ct. 405; *Woods* v. *Miller Co.*, 333 U.S. 138, 144, 92 L.Ed. 596, 68 S.Ct. 421 (1948).

President Truman declared the cessation of hostilities of World War II on December 31, 1946 (61 Stat. 1048; App. 22, infra). On February 10, 1947 the United States signed treaties of peace with Italy, Roumania, Bulgaria and Hungary (61 Stat. 1369, 1799, 1953, 2109); the foregoing countries constituted all of the World War II enemies of the United States with the exception of Japan and Germany.

On July 25, 1947, by Joint Resolution approved by the President (61 Stat. 449), most wartime statutes were repealed, a recognition of the fact that the war itself had terminated.

From the chronology prepared by the Foreign Affairs Section of the Legislative Reference Service, Library of

Congress, for the Senate Committee on Foreign Relations (App. 31-37), it will be seen that the Vesting Order in the St. Andre trust, which was dated February 21, 1951, and the Vesting Orders in the Palm and Cotta trusts, which were dated May 14, 1951, were issued after the Federal Republic of Germany had become a member of the Western European defense alliance.

Petitioners maintain that, on the dates when these three Vesting Orders were issued, the United States was in fact at peace with the Federal Republic of Germany and that, although a treaty of peace had not yet been signed, the absence of a treaty was due to a factor over which neither Germany nor the United States had control, namely, the intransigence of the Soviet Government. This fact is made clear in the proclamation which President Truman issued on October 24, 1951, in pursuance of the Joint Resolution of Congress of October 19. In the course of proclaiming that the state of war between the United States and Germany had terminated on October 19, 1951 the President stated (App. 25)

> WHEREAS on December 31, 1946, the President proclaimed the termination of hostilities of World War II; and
>
> WHEREAS it has been and continues to be the policy of the United States to bring about the conclusion of a treaty of peace with the government of a united and free Germany, *but efforts to this end have been frustrated and made impossible for the time being by the policy of the Soviet Government;* and
>
> WHEREAS it has nevertheless been considered desirable to bring the existing state of war with Germany to a close and to remove Germany from its present enemy status, thus eliminating certain disabilities affecting German nationals; [Emphasis supplied]

Since 1939 the German beneficiaries of these trusts have been deprived of all income or other benefit from the trust

BLEED THROUGH POOR COPY

property; the power conferred upon the United States by Article I, Section 8, Clause 11 of the Constitution was thereby effectively exercised. But if Respondent's orders are now enforced and the corpus of the trusts is surrendered to the United States, no wartime purpose will be served and the only result will be that private property will be confiscated. That the property will be confiscated and never returned is clear from the terms of Section 39 of the Trading with the Enemy Act which declares that "No property or interest therein of Germany * * * or any national of * * * * such country * * * shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein." (App. 22).

The Vesting Orders were therefore not acts done in the prosecution of a war against Germany and its nationals but were rather attempts, made in violation of the Fifth Amendment, to take private property for either public or private use. When the war ended and peace was restored, the German beneficiaries were no longer enemies but merely aliens, *Sutherland* v. *Guaranty Trust Co. of New York,* 11 F.2d 696, and the protection of the Fifth Amendment extends to aliens as well as to citizens of the United States, *Russian Volunteer Fleet* v. *United States,* 282 U.S. 481, 489, 75 L.Ed. 473, 51 S.Ct. 229.

Furthermore, the Vesting Orders violated the provisions of an existing commercial treaty between the United States and Germany.

Article I of the treaty of Friendship, Commerce and Consular Rights between the United States and Germany dated December 8, 1923 (44 Stat. 2132 at 2133-4) provides as follows:

> "The nationals of each High Contracting Party shall receive within the territories of the other, upon sub-

> mitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. *Their property shall not be taken without due process of law and without payment of just compensation.*" [Emphasis supplied]

In *Clark* v. *Allen*, 331 U.S. 503, 91 L.Ed. 1633, 67 S.Ct. 1431, this Court held that the treaty survived World War II, at least insofar as certain of its provisions were concerned. It is submitted that the reasoning of *Clark* v. *Allen* leads to the conclusion that the provisions of Article I of the treaty likewise survived.

On October 22, 1954 there became effective a treaty entitled "Agreement with the Federal Republic of Germany concerning Application of the Treaty with Germany" (App. 27).

Article I of this agreement provides as follows:

> The provisions of the Treaty of Friendship, Commerce and Consular Rights between the United States of America and Germany signed at Washington December 8, 1923, as amended by an exchange of notes dated March 19 and May 21, 1925, and the agreement signed at Washington June 3, 1935, shall be applied and be considered fully operative between the United States of America and the Federal Republic of Germany on and after the effective date of the present agreement insofar as either High Contracting Party may not have heretofore notified the other Party in accordance with Article XXXI of the aforesaid Treaty an intention to modify or omit any of its Articles, and except as otherwise provided in the following Articles, without prejudice to the previous status of any provisions of the aforesaid Treaty which may have remained operative or may have again become operative at any time since the outbreak of hostilities between the United States of America and Germany.

BLEED THROUGH POOR COPY

Although the agreement is prospective only, it is not inconsistent with the previous effectiveness of the provisions of the treaty of 1923, as is evident from the concluding words of Article I of the agreement itself.

Petitioners therefore maintain that the seizure of the property which they hold in trust violates both the Fifth Amendment to the Constitution of the United States and the provisions of the treaties in force with the Federal Republic of Germany.

There is no decision of this Court determining that the war powers of the government may be exercised to confiscate alien property in the circumstances of this case. The decision of this Court principally relied upon by the Court of Appeals in its opinion below (App. 18), namely, *Commercial Trust Co.* v. *Miller*, 262 U.S. 51, 67 L.Ed. 858, 43 S.Ct. 486 (1923), is not in point because the vesting order involved in that case was issued by the Alien Property Custodian on June 19, 1918, five months before the Armistice which ended the fighting in World War I. See the opinion of the District Court, which is reported sub nomine *Garvan* v. *Commercial Trust Co. of N. J.*, 275 Fed. 841, at 842.

In the Courts below the Government has argued that its action is possessory only, that Petitioners are required to surrender the corpus of the trusts, and that Petitioners' sole remedy is a suit to recover the property under Section 9 of the Trading with the Enemy Act (App. 20). But this Court has said that the Act "is strictly a war measure" (*Stoehr* v. *Wallace*, supra, 255 U.S. at 242), that it "may be denominated an exercise of governmental power in the emergency of war" (*Commercial Trust Co.* v. *Miller*, supra, 262 U.S. at 53), and that "War brooks no delay. The Constitution imposes none." (*Silesian-American Corp.* v. *Clark*, *supra*, 332 U.S. at 477).

It is clear from this Court's opinions that the statutory scheme has been found adequate because in the emergency of war the Government may seize the property first and may leave the questions of lawful seizure and of ownership to later determination; but this scheme is lawful only so long as the emergency exists and when it ceases other constitutional principles come into play. Petitioners contend that not only did the emergency cease long before February, 1951, but also that the beneficiaries of the trusts had ceased to be enemy aliens before that date. In these circumstances, the statutory scheme is no longer adequate for, in the absence of the emergency of war, private property may not be seized, even though the statute under which the seizure is made purports to authorize its repossession if the seizure has been a mistake.

CONCLUSION

For the foregoing reasons the petition for a writ of certiorari should be granted.

Respectfully submitted,

JOHN E. POWELL
1341 G Street, N. W.
Washington 5, D. C.
Attorney for Petitioners.

Of Counsel:
ARTHUR P. DRURY
JOHN M. LYNHAM
CHARLES T. TITTMANN

BLEED THROUGH POOR COPY

APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12217

NATIONAL SAVINGS AND TRUST COMPANY, et al., Surviving Trustees, APPELLANTS

v.

HERBERT BROWNELL, JR., Attorney General of the United States, as Successor to the Alien Property Custodian, APPELLEE

Appeal from the United States District Court for the District of Columbia

Decided March 3, 1955

Mr. John E. Powell, with whom *Messrs. Arthur P. Drury, John M. Lynham* and *Charles T. Tittmann* were on the brief, for appellants.

Mr. George B. Searls, Attorney, Department of Justice, for appellee. *Mr. Leo A. Rover,* United States Attorney, and *Mr. Lewis Carroll,* Assistant United States Attorney, also entered appearances for appellee.

Before EDGERTON, WILBUR K. MILLER, and PRETTYMAN, Circuit Judges.

PRETTYMAN, *Circuit Judge:* This is an appeal from a judgment on the pleadings entered in three civil actions, consolidated in the District Court. The actions were brought [1] by the Attorney General of the United States,

[1] Under Sec. 17 of the Trading with the Enemy Act, 40 STAT. 425 (1917), 50 U.S.C.A. App. § 17.

as successor to the Alien Property Custodian, and sought enforcement of vesting orders issued by him. The judgment was that the plaintiff was entitled to immediate possession of certain property covered by the vesting orders, and it directed the defendants to account for the property and to deliver it to the plaintiff.

The property—notes and securities—involved in the controversy was held by trustees under three agreements executed in 1924. The Attorney General[2] determined that it was owned or controlled, and held on behalf of, nationals of a designated enemy country (Germany). In 1948 he issued so-called "right, title and interest vesting" orders[3] in respect to the property, and in February and May, 1951, issued so-called "*res* vesting" orders, by the terms of which he purported to vest in himself the right to immediate possession of the property.[4] The civil actions in the District Court, as we have noted, sought enforcement of his right to possession.

Our appellants are the surviving trustees under the trust instruments. They argue that the power of seizure sought to be exercised in this matter by the Attorney

---

[2] Acting under authority of the Trading with the Enemy Act, 40 STAT. 411 *et seq.* (1917), as amended, 50 U.S.C.A. App. § 1 *et seq.;* Exec. Order No. 9193, 7 FED. REG. 5205 (1942), 3 CODE FED. REGS. 1174 (Cum. Supp. 1943), as amended by Exec. Order No. 9567, 10 FED. REG. 6917 (1945), 3 CODE FED. REGS. 77 (Supp. 1945); and Exec. Order No. 9788, 11 FED. REG. 11981 (1946), 3 CODE FED. REGS. 169 (Supp. 1946).

[3] See the two Zittman v. McGrath cases, 341 U.S. 446 and 471, 95 L.Ed. 1096 and 1112, 71 S.Ct. 832 and 846 (1951).

[4] There was no "right, title and interest vesting" order issued in 1948 in respect to one of the three trusts, but the 1951 order covering the property in that trust was both a "*res* vesting" order and a "right, title and interest vesting" order.

BLEED THROUGH POOR COPY

General was derived from the war power conferred by the Constitution;[5] that at some moment of time following the cessation of hostilities the rules of international law, the Fifth Amendment, and applicable treaties become effective to protect property of aliens from seizure; that the existence of war conditions is a valid subject of judicial inquiry; and that the constitutional power to seize property had terminated before these vesting orders were issued.

The President declared the termination of hostilities of World War II on December 31, 1946.[6] Treaties of peace with Italy, Roumania, Bulgaria and Hungary were concluded on February 10, 1947.[7] By a joint resolution approved July 25, 1947, many wartime statutes were repealed.[8] Congress, by a joint resolution of October 19, 1951,[9] declared the "end of the war" with Germany. So at the time of the vesting orders here involved hostilities had ceased and many factual circumstances premised upon peace had occurred; but no treaty of peace with Germany had been executed, and neither the Congress nor the President had formally declared the end of the war with Germany.[10]

Our appellants, the trustees, are met at once by the well-established propositions that an action brought by the Alien Property Custodian under Section 17 of the Trading with the Enemy Act is a possessory action only—a libel, Justice Holmes called it—not to be delayed

---

[5] Art. I, § 8, cl. 11.

[6] 61 STAT. 1048.

[7] 61 STAT. 1369, 1799, 1953 and 2109, respectively.

[8] 61 STAT. 449.

[9] 65 STAT. 451.

[10] The President did issue such a proclamation on October 24, 1951. 66 STAT. C3.

by defenses,[11] and that a claimant is left to such judicial proceedings as he (the claimant) may bring under Section 9(a) of the Act[12] and such administrative proceedings as he may initiate under Section 32.[13] And appellants are also met by the provision in this statute which defines "end of the war" for its purposes as meaning "the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date".[14] But appellants say their argument cuts across those propositions. They say the war power itself had ceased to exist by the time these vesting orders were issued and so the very right to seize had ceased to exist and the orders were null and void. Thus a bald problem of constitutional law is posed. By the Constitution power "To declare" war was vested in the Congress.[15] From that language and upon constitutional

---

[11] Central Trust Co. v. Garvan, 254 U.S. 554, 65 L.Ed. 403, 41 S.Ct. 214 (1921); Commercial Trust Co. v. Miller, 262 U.S. 51, 67 L.Ed. 858, 43 S.Ct. 486 (1923); Silesian-American Corp. v. Clark, 332 U.S. 469, 92 L.Ed. 81, 68 S.Ct. 169 (1947); and see Cummings v. Deutsche Bank, 300 U.S. 115, 81 L.Ed. 545, 57 S.Ct. 359 (1937).

[12] McGrath v. Zander, 85 U.S. App. D.C. 334, 177 F.2d 649 (D.C.Cir. 1949); Becker Co. v. Cummings, 296 U.S. 74, 79, 80 L.Ed. 54, 56 S.Ct. 15 (1935); Josephberg v. Markham, 152 F.2d 644 (2d Cir. 1945); Clark v. Uebersee Finanz-Korp., 332 U.S. 480, 92 L.Ed. 88, 68 S.Ct. 174 (1947); Zittman v. McGrath, 341 U.S. 471, 95 L.Ed. 1112, 71 S.Ct. 846 (1951).

[13] See Guessefeldt v. McGrath, 342 U.S. 308, 314-315, 96 L.Ed. 342, 72 S.Ct. 338 (1952).

[14] 40 STAT. 412 (1917), 50 U.S.C.A. App. § 2(c).

[15] Art. I, § 8, cl. 11. In the report of the Committee of Detail of the Constitutional Convention, the power given Congress was "To make war". 2 FARRAND, RECORDS OF THE FEDERAL CONVENTION 143, 168, 182 (1927). On the floor of the Convention the word "make" was stricken and the word

BLEED THROUGH POOR COPY

principle it would seem that a state of war, constitutionally speaking and as between nations, is a matter of congressional declaration and not a matter of determination from facts and circumstances.[16] The Constitution gave the President, with the advice and consent of the Senate, power to make treaties,[17] and of course a treaty of peace is within that power. So it would seem that, as a matter of constitutional law, the end of war would be either by a declaration by the Congress or by a treaty duly ratified. But the courts have not followed so simple a rule,[18] and the point is presently in a murky area. One author says that one date can be used for some purposes and other dates for other purposes as the end date of war.[19]

"declare" inserted. There was a short debate, in which Mr. Elseworth pointed out the difference between making war and making peace, remarking, "War also is a simple and overt declaration. peace attended with intricate & secret negociations." *Id.* at 319. A motion to add "and to make peace" was unanimously rejected. *Id.* at 313, 319.

[16] See Montoya v. United States, 180 U.S. 261, 267, 45 L.Ed. 521, 524, 21 S.Ct. 358 (1901), quoting from the concurring opinion of Mr. Justice Washington in Bas v. Tingy, 4 Dall. (4 U.S.) 37, 40, 1 L.Ed. 731, 733 (1800).

[17] Art. II, § 2, cl. 2.

[18] An interesting discussion is in the opinions of the Justices, delivered *seriatim*, in Bas v. Tingy, 4 Dall. (4 U.S.) 37, 1 L.Ed. 731 (1800). See also Freeborn v. The Protector, 12 Wall. (79 U.S.) 700, 20 L.Ed. 463 (1872); Burke v. Tregre, 19 Wall. (86 U.S.) 519, 22 L.Ed. 158 (1874); Prize Cases, 2 Black (67 U.S.) 635, 17 L.Ed. 459 (1863); The Pedro, 175 U.S. 354, 44 L.Ed. 195, 20 S.Ct. 138 (1899); United States v. Anderson, 9 Wall. (76 U.S.) 56, 19 L.Ed. 615 (1869); Lamar, Executor v. Browne, et al., 92 U.S. 187, 23 L.Ed. 650 (1875); McElrath v. United States, 102 U.S. 426, 26 L. Ed. 189 (1880); Jacob Ruppert v. Caffey, 251 U.S. 264, 64 L.Ed. 260, 40 S.Ct. 141 (1920).

[19] Hudson, *The Duration of the War Between the United States and Germany*, 39 HARV. L. REV. 1020, 1021 (1926).

In no case has the Supreme Court held, as a matter of decision, that war does not cease until a declaration or treaty. But it held repeatedly that various combinations of circumstances do not terminate a war, absent formal political action to that purpose.[20] These cases seem to establish that the war power, once existent, continues to exist until either a declaration by the Congress or a proclamation specifically to that effect by the President. In *Commercial Trust Co.* v. *Miller*[21] a joint resolution declaring the state of war with Germany (World War I) at an end had been adopted by the Congress and the President had issued a proclamation of peace, but the Supreme Court held valid the reservation by Congress of the Trading with the Enemy Act from the legislation ending the war. Thus the Court held valid a congressional reservation of a war power even after a declaration otherwise ending the war. In the case at bar we need go no further than the cited cases go. The sum of the facts and circumstances enumerated by our appellants does not total a termination of constitutional war power, so long as neither the Congress nor the President had declared the end of the war.

It follows that the judgment of the District Court must be

Affirmed.

---

[20] Ludecke v. Watkins, 335 U.S. 160, 92 L.Ed. 1881, 68 S.Ct. 1429 (1948); Woods v. Miller Co., 333 U.S. 138, 92 L.Ed. 596, 68 S.Ct. 421 (1948); Fleming v. Mohawk Co., 331 U.S. 111, 91 L.Ed. 1375, 67 S.Ct. 1129 (1947); Hamilton v. Kentucky Distilleries Co., 251 U.S. 146, 64 L.Ed. 194, 40 S.Ct. 106 (1919); Citizens Protective League v. Clark, 81 U.S. App. D.C. 116, 121, 155 F.2d 290, 295 (D.C.Cir. 1946), *cert. denied*, 329 U.S. 787, 91 L.Ed. 674, 67 S.Ct. 354 (1946); Feyerbend v. McGrath, 89 U.S. App. D.C. 33, 189 F.2d 694 (D.C.Cir. 1951); *In re* Miller, 281 Fed. 764, 775 (2d Cir. 1922).

[21] 262 U.S. 51, 67 L.Ed. 858, 43 S.Ct. 486 (1923).

BLEED THROUGH POOR COPY

CONSTITUTION OF THE UNITED STATES

Art. 1, § 8, Cl. 11

Section 8. The Congress shall have Power * * *;

* * * *

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

* * * *

Fifth Amendment

No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

TRADING WITH THE ENEMY ACT, 50 U.S.C. APP. 1 ET SEQ:

SEC. 5. (b) (1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or

privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

* * * * *

SEC. 9. (a) That any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him here-

BLEED THROUGH POOR COPY

under and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien

Property Custodian, or in the Treasury of the United States, as provided in this Act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

* * * * *

Sec. 39. No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1-6 and 7-39 of this Appendix], shall be returned to former owners thereof or their sucessors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32 of this Act [section 32 of this Appendix] or of the Philippine Property Act of 1946 [sections 1381-1386 of Title 22]. Oct. 6, 1917, c. 106, §39, as added July 3, 1948, c. 826, §12, 62 Stat. 1246.

CESSATION OF HOSTILITIES OF WORLD WAR II BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

(61 Stat. 1048)

With God's help this nation and our allies, through sacrifice and devotion, courage and preserverance, wrung final and unconditional surrender from our enemies.

BLEED THROUGH POOR COPY

Thereafter, we, together with the other United Nations, set about building a world in which justice shall replace force. With spirit, through faith, with a determination that there shall be no more wars of aggression calculated to enslave the peoples of the world and destroy their civilization, and with the guidance of Almighty Providence great gains have been made in translating military victory into permanent peace. Although a state of war still exists, it is at this time possible to declare, and I find it to be in the public interest to declare, that hostilities have terminated.

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the cessation of hostilities of World War II, effective twelve o'clock noon, December 31, 1946.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 31st day of December in the year of our Lord nineteen hundred and forty-six, and of the Independence of the United States of America the one hundred and seventy-first.

[SEAL]

HARRY S. TRUMAN

By the President:
James F. Byrnes
The Secretary of State.

JOINT RESOLUTION

(65 Stat. 451)

To terminate the state of war between the United States and the Government of Germany.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war declared to exist between the United States and the Government of Germany by the joint resolution of Congress approved December 11, 1941, is hereby terminated and such termination shall take effect on the date of enactment of this resolution: Provided, however, That notwithstanding this resolution and any proclamation issued by the President pursuant thereto, any property or interest which prior to January 1, 1947, was subject to vesting or seizure under the provisions of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, or which has heretofore been vested or seized under that Act, including accurals to or proceeds of any such property or interest, shall continue to be subject to the provisions of that Act in the same manner and to the same extent as if this resolution had not been adopted and such proclamation had not been issued. Nothing herein and nothing in such proclamation shall alter the status, as it existed immediately prior hereto, under that Act, of Germany or of any person with respect to any such property or interest.

Approved October 19, 1951.

BLEED THROUGH POOR COPY

TERMINATION OF THE STATE OF WAR WITH GERMANY BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

66 Stat. c3

WHEREAS, by a joint resolution, approved by the President on December 11, 1941, the Congress of the United States formally declared a state of war to exist between the United States and the Government of Germany (55 Stat. 796); and

WHEREAS on December 31, 1946, the President proclaimed the cessation of hostilities of World War II; and

WHEREAS it has been and continues to be the policy of the United States to bring about the conclusion of a treaty of peace with the government of a united and free Germany, but efforts to this end have been frustrated and made impossible for the time being by the policy of the Soviet Government; and

WHEREAS it has nevertheless been considered desirable to bring the existing state of war with Germany to a close and to remove Germany from its present enemy status, thus eliminating certain disabilities affecting German nationals; and

WHEREAS the rights, privileges, and status of the United States and the other occupation powers in Germany, and the rights and privileges of the United States and its nationals to which it or they have become entitled as a result of the war, as well as the right to exercise or enforce the same, derive from the conquest of Germany and the assumption of supreme authority by the Allies and are not affected by the termination of the state of war; and

WHEREAS the Congress of the United States by a joint resolution, approved October 19, 1951 (Public Law 181, 82d Congress), has resolved that the state of war declared to exist between the United States and the Government of Germany is terminated and that such termination shall take effect on the date of enactment of such resolution;

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, pursuant to such joint resolution, do proclaim that the state of war between the United States and the Government of Germany declared by the joint resolution of Congress approved December 11, 1941 was terminated on October 19, 1951.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 24th day of October, in the year of our Lord nineteen hundred and fifty-one, and of the Independence of the United States of America the one hundred and seventy-sixth.

[SEAL] HARRY S. TRUMAN

By the President:
DEAN ACHESON,
Secretary of State.

BLEED THROUGH POOR COPY

TREATY BETWEEN THE UNITED STATES AND GERMANY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS

(44 Stat. 2132)

* * * *

ARTICLE I.

"The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. *Their property shall not be taken without due process of law and without payment of just compensation.*"

AGREEMENT CONCERNING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND GERMANY ON FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS OF DECEMBER 8, 1923, AS AMENDED

"The United States of America and the Federal Republic of Germany, desirous of strengthening the bonds of friendship existing between them and of placing their relations on a normal and stable basis as soon as possible, have resolved as a step toward that end to restore to full force and effect, except as otherwise provided in the following Articles, the provisions of the Treaty of Friendship, Commerce and Consular Rights between the United States of America and Germany signed at Washington, December 8, 1923, as amended, as a provisional measure pending the conclusion of a more comprehensive, modern treaty or treaties for such purposes, and have,

through their duly authorized representatives, agreed as follows:

ARTICLE I

The provisions of the Treaty of Friendship, Commerce and Consular Rights between the United States of America and Germany signed at Washington December 8, 1923, as amended by an exchange of notes dated March 19 and May 21, 1925, and the agreement signed at Washington June 3, 1935, shall be applied and be considered fully operative between the United States of America and the Federal Republic of Germany on and after the effective date of the present agreement insofar as either High Contracting Party may not have heretofore notified the other Party in accordance with Article XXXI of the aforesaid Treaty an intention to modify or omit any of its Articles, and except as otherwise provided in the following Articles, without prejudice to the previous status of any provisions of the aforesaid Treaty which may have remained operative or may have again become operative at any time since the outbreak of hostilities between the United States of America and Germany."

BLEED THROUGH POOR COPY

HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY, UNITED STATES SENATE, EIGHTY-THIRD CONGRESS FIRST SESSION ON PROPOSED AMENDMENTS TO THE TRADING WITH THE ENEMY ACT OF 1917

(July, 1953)

Page 303

Statement of Charles Trowbridge Tittmann, Washington, D. C.

Mr. TITTMANN. Senator, if I may identify myself, I wrote that out for your benefit and the benefit of the court reporter.

Senator DIRKSEN. There is before the committee—

Charles Trowbridge Tittmann, 1718 Connecticut Avenue, NW., Washington, D. C., cotrustee with the National Savings & Trust Co., Washington, D. C.

In re trusts for the benefit of (1) Baroness Blanca von Cotta; (2) Baroness Irene von St. Andre; (3) Baron Alfred von Palm, Germans residing in the State of Wurttemberg, Germany.

Mr. Tittmann appears for himself and for the National Savings & Trust Co., as cotrustees.

I think, Mr. Tittmann, you were at one time identified with the Bureau of Internal Revenue and the Treasury Department.

Mr. TITTMANN: That is right. I was one of the senior attorneys and I was retired for old age last February.

Senator DIRKSEN. We are delighted to have you, sir.

Mr. TITTMANN. Senator, I know you have a great deal to do, and you want me to get through as quickly as I can. There are 3 bills that I wanted to comment on, and I have 1 statement commenting on S. 151 and S. 155.

Is it out of place for me to also comment on S. 155 in this statement?

Senator DIRKSEN. No, sir.

Mr. TITTMANN. All right. I will give you the story of these trusts. The old Baroness Josephine von Waechter was born in the city of New York about the year 1833, I think. In—

Senator DIRKSEN. 1833?

Mr. TITTMANN. Yes. She died at the age of 97, as I understand it, in the year 1930.

She married the Baron von Waechter in 1856, or thereabouts. He was then the Minister from the Kingdom of Wurttemberg to the French Court. She was born in New York City, as Josephine Lee, the daughter of David Lee, a well-known New Yorker of that time.

She became a German by marriage. She had quite a little property in this country. During World War I, her property was sequestered, and it was finally released. After being released in the year 1922, she donated some nearly $300,000 to 3 grandchildren, and those grandchildren, these 3 people there, those 3 beneficiaries, Baroness von Cotta, Baroness St. Andre, and Baron von Palm, felt very justifiably that their money would be much safer in this country than it would if brought over to Germany. So they placed it in trust with the National Savings & Trust Co., myself, and the late Reeves D. Strickland. We invested and sent the income to them until World War II came.

Now, of course, everything is held up. Incidentally, there is about $250,000 in the trusts now, and the Alien Property Office wants to get that. We have not turned it over to them yet, it is still held by the trust company.

BLEED THROUGH POOR COPY

82d Congress)
2d Session)

COMMITTEE PRINT

Summaries of the Contractual Agreements with Germany and Supporting Documents

---

Texts of a Protocol to the North Atlantic Treaty, and the Tripartite Declaration Issued at the Signing of the European Defense Community Treaty at Paris

---

Chronological Background

Printed for the use of the Committee on Foreign Relations

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1952

* * * *

[p. 24] **4. A Chronological Background**

Western Germany, 1945-52

(Prepared by the Foreign Affairs Section of Legislative Reference Service, Library of Congress)

1941

December 11: United States declaration of war with Germany.

1945

May 8: Germany surrenders unconditionally to Allies.

• • • •

October 8: United States authorities in Germany announce that American military government detachments will be withdrawn from county and city governments which will then revert to Germans.

• • • •

1946

October 24: Land of Wuerttemberg-Baden adopts constitution and other German Laender subsequently adopt constitutions, thus reestablishing state government.

November 4-December 12: Council of Foreign Ministers in New York begins preliminary work on German peace treaty.

December 2: Secretary of State Byrnes and British Foreign Secretary Bevin sign formal agreement for economic merger of United States and British Occupation Zones effective January 1, 1947, and designed to make combined Zones self-sustaining within 3 years.

1947

January 14-February 25: Deputies of Council of Foreign Ministers meet in London but reach little agreement on any major point concerning German peace treaty.

March 10-April 24: Moscow conference of Council of Foreign Ministers discusses German peace treaty but succeeds in reaching only minor agreements.

July 15: Joint Chiefs of Staff issue new directive to to United States Commander in Germany ordering him to help Germans build up their industry and promising additional American financial aid.

BLEED THROUGH POOR COPY

Objectives of United States policy in Germany were cited as—

(a) German self-government and ultimate federalization of four zones;

(b) Free political parties with no party enjoying privileged status;

(c) Elimination of war industries; exaction of reparations; encouragement of Germans to rebuild self-supporting state dedicated to peace and integrated into economy of Europe.

* * * *

December 15: Fifth session of Council of Foreign Ministers, which convened in London November 29 for further consideration of peace treaty for Germany adjourns indefinitely after failure to reach agreement.

1948

* * * *

February 23-March 25: United States, Great Britain, and France hold conference at London at which agreement is reached in principle on international control of the Ruhr, a federal government for Germany and German representation in ERP.

March 20: Soviet delegation walks out of Allied Control Council declaring it no longer exists.

March 30: U.S.S.R. advises three Western Powers of new controls on traffic between Berlin and Western Zones.

Subsequent imposition of additional controls led to Berlin blockade and Allied airlift.

June 7: United States, Great Britain, France and Benelux countries in London announce agreement on the establishment of a West German Government and an international authority for Ruhr.

June 16: Soviet representatives walk out of Allied Kommandatura in Berlin.

June 24: Warsaw Declaration issued by Soviet Union and East European Satellites, denouncing conclusions reached in London Conference of June 7.

June 24: Blockade of Berlin begins.

• • • •

July 26: West German Minister-Presidents and Allied Military Governors agree to proceed with organization of West German Government.

September 1: Parliamentary Council, composed of representatives of eleven West German states, meets at Bonn.

• • • •

1949

• • • •

April 25: West Germans and Allies sign draft constitution for West German Federal Republic.

• • • •

May 8: Parliamentary Council at Bonn adopts Fundamental Law (constitution) of West German Federal Republic.

May 12: Western Military Governors approve Fundamental Law.

• • • •

May 23-June 20: Foreign Ministers of Western powers and Soviet Union meet in Paris but fail to agree on proposed German unification and German peace treaty.

BLEED THROUGH POOR COPY

• • • •

June 15: West German Fundamental Law is officially proclaimed.

• • • •

September 12: Theodor Heuss of Free Democratic Party is elected President of Federal Republic.

September 15: Konrad Adenauer of Christian Democratic Party is elected Chancellor (Prime Minister) of Federal Republic.

September 21: West German Federal Government formally begins with promulgation of Occupation Statute and establishment of Allied High Commission in place of Military Government.

• • • •

November 3-9: Council of Europe agrees in principle to "associate membership" for West German Federal Republic.

November 22: Western High Commissioners and Federal Republic agree on Petersberg Protocal revising dismantling program and removing other restrictions on Western Germany.

• • • •

December 15: Federal Republic signs bilateral ECA agreement regarding Marshall Plan aid.

1950

• • • •

April 1: Council of Europe invites German Federal Republic to become Associate Member.

• • • •

May 11-14: Foreign Ministers of United States, United Kingdom, and France, meet in London and declare that Germany should reenter progressively the community of free people of Europe. Call for elections for a constituent assembly.

• • • •

May 26: United States, United Kingdom and French High Commissioners send identical letters to Soviet Control Commissioner Chuikov proposing elections for constituent assembly. No reply received.

• • • •

June 20: Six-Power conference on Schuman Plan opens in Paris with German Federal Republic, France, Netherlands, Belgium, Luxembourg and Italy participating.

• • • •

September 12-19: Western Foreign Ministers, meeting in New York, decide to: (a) Ask North Atlantic Defense Ministers to examine methods by which Germany could make contribution to European defense; (b) Amend Occupation Statute; (c) Take steps to end state of war with Germany; (d) Consider attack on West Germany or Berlin as attack on Western Powers; and (e) Permit creation of German foreign ministry and mobile police force.

• • • •

December 19: North Atlantic Council meeting in Brussels announces decision to invite West Germany to participate in joint defense efforts.

• • • •

1951

• • • •

February 15: Talks on establishment of European Army open in Paris with German delegation participating on terms of complete equality.

March 5-June 21: Foreign Ministers' deputies meet to draft agenda for Big Four Conference on Germany and other questions, but are unsuccessful.

BLEED THROUGH POOR COPY

March 6: Allied High Commission promulgates First Instrument of Revision of Occupation Statute reducing Allied internal controls and permitting establishment of foreign ministery.

March 19: In Paris, representatives of German Federal Republic, Belgium, France, Italy, Luxembourg, and Netherlands initial fifty-year treaty to carry out Schuman Plan.

May 2: Federal Republic becomes full member of Council of Europe.

September 10-14: Foreign Ministers of United States, Great Britain and France, meeting in Washington, declare that their policy is "integration of the Federal Republic on a basis of equality within a European community itself included in a developing Atlantic Community."

They instructed Allied High Commission to negotiate "contractual" agreements with Federal Government which would provide basis of mutual relationship until peace treaty with unified Germany becomes possible and which would go into effect together with agreement for European Defense Community (European Army).

* * * *

October 19: State of war between United States and Germany is terminated by joint resolution of Congress.

Great Britain, France, and several other countries terminated state of war in July 1951.

* * * *